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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,190	02/12/2004	Tetsuya Tsujikawa	501,36887CC8	2753

20457 7590 10/28/2004

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EXAMINER
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HO, HOAI V

ART UNIT	PAPER NUMBER
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2818

DATE MAILED: 10/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

2/2

<b>Office Action Summary</b>	Application No. 10/776,190	Applicant(s) TSUJIKAWA ET AL.	
	Examiner Hoai V. Ho	Art Unit 2818	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 September 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 5-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/250,157.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to Amendment***

1. This office action is responsive to communication(s) filed on September 15, 2004.
2. Claims 5-12 are presented for examination.

***Claim Rejections - 35 USC § 112***

3. Applicant's request for reconsideration of the rejections of 35 USC § 112 set forth in the last Office action is persuasive and, therefore, the rejections of that action are withdrawn.

***Double Patenting***

4. Applicant's request for reconsideration and removal of the obviousness type double patenting rejection set forth in the last Office action is not persuasive.

Because as Applicant's remark in paper 6 admitted that the "second type command, on the other hand, indicates a command termination for the first type format command. As such, the nonvolatile memory will recognize that the command input is completed and, accordingly, operation in accordance with the first type command can be started." Therefore, one of ordinary skill in the art would be recognized that the second command in the claim 1 of U.S. Patent No. 6,507,520 would be obvious as the command termination for the first type command.

Therefore, the claims 5-12 are still rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3 of U.S. Patent No. 6,507,520.

***Claim Rejections - 35 USC § 102***

5. The response has been reviewed but has not been found persuasive as to error in the rejection. The claims are finally rejected under 35 USC § 102 for the reasons given in the previous Office action.

***Response to Arguments***

6. Applicants' arguments have been fully considered but they are not persuasive.

Applicants argue, "Hamakawa reference fails to teach or suggest the claimed 'second type command' which 'indicates a command termination of said second type format command' or the 'second type format command' which includes the first type command and the second type command." The Examiner disagrees with these statements. Because Figure 6 of Hamakawa discloses the second type command (for write data, 00H) which indicates a command termination of said second type format command (a write signal 31. col. 8, lines 52-66). Figure 6 of Hamakawa also discloses the second type format command (col. 8, lines 13-14) which includes the first type command (write data, 00H) and the second type command (command data write 40H). Also see col. 6, lines 34 and 35, col. 8, line 8 to col. 9, line 5 and Figure 7.

For the above reasons, it is believed that the rejections should be sustained. Feature of an invention not found in the claims can be given no patentable weight in distinguishing the claimed invention over the prior art.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. When responding to the office action, Applicants are advised to provide the examiner with the line numbers and page numbers in the application and/or references cited to assist the examiner to locate the appropriate paragraphs.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoai V. Ho whose telephone number is (571) 272-1777. The examiner can normally be reached on 7:00 AM -- 5:30 PM from Monday through Thursday from Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Nelms can be reached on (571) 272-1787. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



hvh  
October 25, 2004



Hoai V. Ho  
Primary Examiner  
Art Unit 2818